**TOWN OF LAYTONSVILLE**

**ORDINANCE 02-20**

**An ordinance whereby the Town of Laytonsville amends its Forest Conservation and Reforestation Ordinance to: (A) ensure individuals may only contribute money to the State of Maryland’s forest conservation fund if afforestation or reforestation onsite or offsite cannot be reasonably accomplished and appropriate credits generated by a forest mitigation bank are not available, and (B) to supplement its reporting obligations.**

 **WHEREAS**, the Local Government Article §§ 5–202(1), (2) and (5) of the Annotated Code of Maryland grants to municipalities the power to adopt ordinances to assure the good government of the municipality, to protect and preserve the municipality’s rights, property and privileges, and to protect the health, comfort, and convenience of the residents of the municipality; and

 **WHEREAS**, § 602(46) of Article VI of the Town Charter grants to the Mayor and Council the power to adopt by ordinance and enforce within the corporate limits police, health, sanitary, fire, building, subdivision and platting of land, environmental, historic preservation, traffic, speed, parking, and other similar regulations not in conflict with the laws of the State of Maryland or this Charter; and

 **WHEREAS**, it is the sense of the Mayor and Town Council, after the Maryland Department of Natural Resources adopted changes to its regulations affecting forest conservation, that amendments to the Town’s Forest Conservation and Reforestation ordinance are necessary in order to comply with the changes adopted by the Maryland Department of Natural Resources.

 **NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Laytonsville in regular session assembled, that its Forest Conservation and Reforestation Ordinance is hereby amended as follows:

**Section X Payment Instead of Afforestation and Reforestation**

**10.1 Forest Conservation Fund.**

A. There is established a forest conservation fund for the State of Maryland. If a person subject to this ordinance demonstrates to the satisfaction of the Town and the Maryland Department of Natural Resources that requirements for reforestation or afforestation onsite or offsite cannot be reasonably accomplished and appropriate credits generated by a forest mitigation bank in the same county or watershed are not available, the person shall contribute money, at a rate of 50 cents per square foot of the area of required planting, into the state forest conservation fund. Money contributed instead of afforestation or reforestation under this article shall be paid within 90 calendar days after development project completion. The ~~s~~State shall accomplish the reforestation or afforestation for which the money is deposited within 2 years or three growing seasons, whichever is a greater time period, after receipt of the money. At the end of that time, any part that has not been used to meet the afforestation or reforestation requirements shall be returned to the person who provided the money.

B. Money deposited in the ~~s~~State forest conservation fund shall be governed as follows:

 (1) Payments by an applicant made instead of afforestation or reforestation shall be used only for the costs associated with reforestation and afforestation, including site identification, acquisition, preparation, maintenance of existing forests, and achieving urban canopy goals.

 (2) Fines collected from persons found to be in noncompliance with their declaration of intent, forest conservation plan or the associated 2-year maintenance agreement, this subtitle, or local ordinances and regulations, may be used by the Department for any costs associated with the implementation of Natural Resources Article, §§ 5–1601~~–5–1612~~ *et seq*., Annotated Code of Maryland, and this subtitle.

 (3) If payments deposited under Subsection 10.1 remain in the Fund longer than 2 years or 3 growing seasons, the applicant may file a request, on a form provided by the Department, for the return of the unspent monies, if the applicant demonstrates to the satisfaction of the Department that the returned monies will be spent ~~of~~ on tree plantings that:

 (a) Will occur within the same municipality or watershed as the applicant’s project; and

 (b) Are not being planted to comply with:

 (i) Reforestation or afforestation requirements of the State or local Forest Conservation Act program, or

 (ii) Requirements of any other federal, state, or local statute, ordinance, or regulation.

\*\*\*

**Section XVI Annual Report**

**16.1**

 On or before ~~July~~ March 1st of each year, the Town shall submit to the ~~Senate Economic and Environmental Matters Committee~~ Maryland Department of Natural Resources a report on:

1. The number, location and type of projects subject to the provisions of this ordinance;
2. The amount and location of acres cleared, conserved, and planted in connection with a development project;
3. The amount of reforestation and afforestation fees and noncompliance penalties collected and expended, the number of acres for which the fees were collected, and the number of acres reforested, afforested, or conserved using the fees; ~~and~~
4. The costs of implementing the Forest Conservation Program~~.~~;
5. The size, location, and protection of any local forest mitigation banks which are created under a local or state program;
6. The number, location and type of violations and type of enforcement activity conducted in accordance with this subtitle; and
7. To the extent practicable, the size and location of all conserved and planted forest areas, submitted in an electronic geographic information system or computer aided design format.

\*\*\*

 **AND BE IT FURTHER ORDAINED** that if any provision of this ordinance or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not effect the other provisions or any other applications of this ordinance, which can be given effect without the invalid provision or applications, and to this end, all the provisions of this ordinance are hereby declared to be severable;

 **AND BE IT FURTHER ORDAINED** that this ordinance shall take effect twenty (20) days from the date of its adoption;

 **AND BE IT FURTHER ORDAINED** that a fair summary of this ordinance shall forthwith be published twice in a newspaper having general circulation in the Town and otherwise made available to the public.

 **INTRODUCED** by the Town Council of the Town of Laytonsville, Maryland, at a regular public meeting on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_, 2020.

 **ADOPTED** by the Town Council of the Town of Laytonsville, Maryland at a regular public meeting on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_, 2020.

 Adopted: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attest: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Charlene Dillingham, Clerk James A. Ruspi, Mayor

~~[ ]~~ indicate deletions

Underline indicates additions

Asterisks \*\*\* indicate matter retained in existing law but omitted herein

Effective Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_, 2020